

Appeal from a decision of the Wyoming State Office, Bureau of Land Management, rejecting simultaneously filed oil and gas lease application W 86823.

Reversed and remanded.

1. Oil and Gas Leases: Applications: Drawings--Oil and Gas Leases:
Applications: Filings

Where a simultaneous oil and gas lease application bears a date subsequent to the close of the filing period, but the evidence discloses that the application was dated, signed, and submitted to BLM during the filing period, and it is established that the misdating was merely inadvertent and not done with an intent to obtain a lease by fraud, the misdating is a nonsubstantive error which does not require the rejection of the application.

APPEARANCES: Billy W. Eddy, pro se.

OPINION BY ADMINISTRATIVE JUDGE MULLEN

Billy W. Eddy has appealed from a decision of the Wyoming State Office, Bureau of Land Management (BLM), dated November 2, 1983, rejecting his simultaneous oil and gas lease application which had been drawn with first priority for parcel WY-354 in the July 1983 drawing. BLM rejected this application because it had been dated "8/14/83," a date subsequent to the close of the period for filing applications for the July 1983 drawing. As a basis for the rejection BLM cited the provisions of 43 CFR 3112.1-2 and H. W. Roberts, 69 IBLA 76 (1982). Appellant filed a timely notice of appeal and a statement of reasons.

In his statement of reasons appellant states that the application had been signed on July 14, 1983, but that the signature date was inadvertently entered as "8/14/83." In support of this statement appellant submitted a cancelled check representing the filing fees submitted by him with the application. Appellant states that the error in dating the application was neither material nor substantial, but was merely an "inadvertent slip in penning the wrong month in the date of signing the application." The cancelled check shows that the check had been received by BLM and deposited on July 18, 1983. The time period between the date that appellant states that he signed and

mailed the application to BLM and the date of deposit by BLM supports this contention.

[1] While BLM correctly stated that this Board had previously found that a misdated application was fatal to the application, subsequent to the Roberts case, *supra*, the United States Court of Appeals, Tenth Circuit, ruled that the failure of an applicant to date an application does not per se disqualify the application. In so ruling, the court held that the error was de minimis and nonsubstantive in nature. Conway v. Watt, 717 F.2d 512 (10th Cir. 1983). Since the Conway decision this Board has ruled that the failure to insert the proper date is also a de minimis error. In Richard W. Renwick (On Reconsideration), 78 IBLA 360 (1984), we held that where the simultaneous oil and gas lease application bears a date earlier than the commencement of the filing period, but was actually dated and signed during the filing period, and it can be reasonably established that the misdating was merely inadvertent and not done with an intent to obtain the lease by fraud, the misdating is a nonsubstantive error which does not require the rejection of the application.

The evidence submitted by appellant demonstrates that the application and the accompanying remittance were received by BLM prior to the date shown on the face of the application and within the filing period. There is nothing in the record which would demonstrate that appellant had misdated the application in an attempt to defraud the Government. The rationale stated in Conway, supra, and adopted by this Board in Renwick, supra, applies to this case.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is reversed and the case file is remanded to the Wyoming State Office, BLM, for further processing of appellant's application.

R. W. Mullen
Administrative Judge

We concur:

Bruce R. Harris
Administrative Judge

Gail M. Frazier
Administrative Judge

